

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14903 of 2018

- 1.1. Manjulika Prasad, Wife of Late Akhileshwar Prasad, Residing at 402, Tara Enclave, Near S.B.I. Training Centre, Khajpura, Bailey Road, Patna-14.
- 1.2. Anshu Sinha, Wife of Col. Satyarup, Daughter of Late Akhileshwar Prasad, Residing at GH-502, Amrapali Village, Nyaykhand-2, Indirapuram, Ghaziabad-201014.
- 1.3. Anand Prakash, Son of Late Akhileshwar Prasad, Residing at AM-510, Amrapali Village- Nyaykhand-2, Indirapuram, Ghaziabad-201014.
- 1.4. Annu Mohan, Wife of Sri Vikash Mohan, Daughter of Late Akhileshwar Prasad, Residing at 502, Tower-3, Orange County, Indirapuram, Ghaziabad-201014.
- 1.5. Abhishek Prakash, Son of Late Akhileshwar Prasad, Residing at CO3-806, Ebony Green, Lal Kuan, Near Jindal Public School, Bamheta, Ghaziaad-201009.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. Deputy Secretary to the Government, Public Health Engineering Department, Government of Bihar, Patna
4. Engineer-in-Chief cum Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
5. Bihar Rajya Jal Parishad through its Managing Director, West Boring Canal Road, Patna.
6. The Secretary, Bihar Rajya Jal Parishad, West Boring Canal Road, Patna.
7. Chief Engineer, Bihar Rajya Jal Parishad, West Boring Canal Road, Patna.
8. Executive Engineer, Bihar Rajya Jal Parishad, West Boring Canal Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Sinha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC-4

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 08-04-2024

Learned counsel for the petitioners submit that



vide order dated 18.03.2024 liberty was granted to him to file rejoinder to the counter affidavit. Counsel submits that he is not interested to file rejoinder to the counter affidavit as it is not required in the present case and ready to argue this case.

2. Heard learned counsel for the petitioners and learned counsel for the State.

3. The present writ petition has been filed by the petitioners challenging the enquiry report dated 22.08.2016 as well as the order of punishment contained in Memo No.5/Aa.2-1032/2009-570 dated 29.06.2018, in which original petitioner's 20% pension has been permanently withheld in exercise of the power envisaged under Rule 43(b) of the Bihar Pension Rules.

4. Learned counsel for the petitioners submits that during pendency of the writ petition the sole petitioner died and at his place his widow, son and daughter were substituted. Counsel further submits that after death of the sole petitioner the widow became entitle for the family pension and presently she is getting full family pension. Counsel submits that after death petitioner is not interested to pursue on punishment order but only need protection from this Court that the family pension which has been granted to him must not be disturbed.



5. Learned counsel for the State submits that cause of action for the deceased-petitioner has not taken place till date as the widow is getting full family pension and there is no restriction casted from the State and particularly when the petitioner is not interested to pursue his case on the point of quashing the enquiry report and quashing the order of punishment then, at this juncture, it shall be assumed that the present case has become infructuous and cause of action has not been developed for the petitioners.

6. After hearing the arguments of the parties, this Court is of the firm view that the widow of the original petitioner, who has already been substituted in this case, is not interested to pursue the original relief, i.e., quashing of enquiry report as well as quashing of punishment order, but has only apprehension that the family pension fixed by the Government/AG may not be disturbed.

7. In this view of the matter, this Court hereby protects to the widow-petitioner that the respondent authority shall not take steps disturbing the widow-petitioner's pension and if it shall be lawful to change her pension then in that case opportunity of hearing shall be provided to the widow-petitioner by way of granting notice and then only any decision shall be



taken.

8. With this direction, this writ petition is
disposed off.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2024
Transmission Date	NA

